

Law Office of Jack Silver

P.O. Box 5469

Phone 707-528-8175

lhm28843@sbcglobal.net

Santa Rosa, California 95402

Fax 707-528-8675



November 1, 2006

Via Certified Mail / Return Receipt Requested

Eugene B. Ceccotti, Owner, President
and Registered Agent
Shamrock Materials of Novato, Inc.
Shamrock Materials, Inc.
181 Lynch Creek Way, Suite 200
Petaluma, CA 94954-2388

Re: Supplemental Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. Ceccotti:

I am writing on behalf of Northern California River Watch ("River Watch") with regard to the discharges of pollutants from facilities of Shamrock Materials, Inc. and Shamrock Materials of Novato, Inc. ("Shamrock") into the Russian River, Santa Rosa Creek, Laguna de Santa Rosa, Novato Creek, Petaluma River, and San Francisco Bay and their associated wetlands and tributaries - all navigable waters of the United States, in violation of the Clean Water Act ("CWA").

On or about April 28, 2005, River Watch served Shamrock with a 60 day notice of its intent to file suit against Shamrock under the CWA ("Notice" or "original Notice"). After the end of the 60 day Notice period the parties entered into an Agreement to Stay the Filing of Litigation which provided in part that, for "the purposes of all procedural requirements under the Clean Water Act, River Watch will be deemed to have filed its action as of the date this Agreement to Stay Filing of Litigation is executed by all parties." The Agreement was extended twice by Stipulation of the parties, and expired on October 26, 2006. This Supplemental Notice supplements the original Notice and will be referred to hereafter as Supplemental Notice. The original Notice is fully incorporated into this Supplemental Notice.

This Supplemental Notice addresses Shamrock's failure to comply with the terms and conditions of California's General Industrial Storm Water Permit for Industrial Storm Water Discharges (WDID 228S003380), its unpermitted discharges of contaminated storm water from its facilities, its discharges of non-storm water pollutants from its facilities in violation of effluent limitations, and its violations of the procedural requirements of National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 97-03-DWQ and Water Quality Order No. 91-13-DWQ (as amended by Water Quality Order 92-12-DWQ) issued pursuant to CWA § 402(p), 33 U.S.C. § 1342(p) ("General Permit").

River Watch also places Shamrock on notice that following the expiration of sixty (60) days from the date of this Supplemental Notice, it intends to bring suit against Shamrock in the United States District Court for Shamrock's continuing violations of "an effluent standard or limitation," permit, condition or requirement and/or "an order issued by the Administrator or a State with respect to such standard or limitation" under CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Basin Plan, as exemplified by Shamrock's illegally discharging non-storm water or during non-storm events from a point source into waters of the United States without an NPDES permit. CWA §§ 402(a) and 402(b), 33 U.S.C. 1342(a) and 1342(b); CWA § 301(a), 33 U.S.C. 1311(A)

CWA § 505(b), 33 U.S.C. 1365(b), requires that sixty (60) days prior to the initiation of a civil action under CWA § 505(a), a citizen must give notice of his/her intent to sue. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, the State in which the violations occur, and the registered agent of the alleged violator.

The CWA requires that any notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. The specific standard, limitation, or order alleged to have been violated.

To comply with this requirement River Watch has identified the specific NPDES permit or lack of a NPDES permit including whether the permit falls under CWA § 402(p) or CWA §§ 402(a) and 402(b).

2. The activity alleged to constitute a violation.

To comply with this requirement River Watch has set forth below narratives describing with particularity the activities leading to violations.

3. The discharger responsible for the alleged violation.

The discharger responsible for the alleged violations are the entities collectively referred to as Shamrock throughout this Supplemental Notice.

4. The location of the alleged violation.

The location or locations of the various violations are identified in the original Notice and Supplemental Notice¹ and in records either created or maintained by or for Shamrock which relate to Shamrock's activities.

5. The date or dates of violation or a reasonable range of dates during which the alleged activities occurred.

The range of dates covered by this Supplemental Notice is November 1, 2001 through November 1, 2006. River Watch will from time to time update and or supplement its original Notice to include all violations which occur after that date. The majority of the violations such as failure to obtain a NPDES permit, failure to implement required Best Management Practices, poor housekeeping, etc., are continuous, and therefore each day is a violation. River Watch believes that all violations set forth in the original Notice and this Supplemental Notice are continuing in nature or will likely continue after the filing of a lawsuit or the amending of any complaint already filed. Specific dates of violations are evidenced in Shamrock's own records (or lack thereof) or files and the records or files of other agencies including the Regional Water Quality Control Board, County Health and the police department.

6. The full name, address, and telephone number of the person giving notice.

This information can be found at the end of this Supplemental Notice.

BACKGROUND

Shamrock operates numerous gravel mining, sand and gravel distribution, manufacturing, production, and retail facilities in Sonoma, Marin, and Napa Counties. The sites serve as stockpile areas, storage areas for ingredients in cement manufacturing, cement manufacturing areas, washing and rinsing areas, concrete product storage areas and many other rock and landscaping products including bark and compost storage and sales. These sites also serve as cement truck wash out locations and truck storage and maintenance facilities.

In Sonoma County, Shamrock's sites drain to the Russian River², Santa Rosa Creek, the

¹ 30022 Levee Road, Cloverdale, CA, 285 Roberts Lane, Santa Rosa, CA, 999 Kaiser Road, Napa, CA, 548 DuBois Street, San Rafael, CA, 400 Hopper Street, Petaluma, CA, 101 East Washington Street, Petaluma, CA, 8150 Highway 116, Cotati, CA, 16 Landings Way, Petaluma, CA, 7552 Redwood Boulevard, Novato, CA, 19725 Arnold Drive, Sonoma, CA and 290 Todd Road, Santa Rosa, CA.

² The Russian River and its tributaries are habitat of naturally spawned populations of Coho salmon (*Oncorhynchus kisutch*), Steelhead trout (*Oncorhynchus mykiss*), and Chinook salmon (*Oncorhynchus tshawytscha*) inhabiting the California Coast Province. These salmon and trout have been federally listed as threatened under the Endangered Species Act. Critical habitat has also been designated for these species to include all estuarine and river reaches accessible to salmonids below longstanding, naturally impassable barriers. Designated critical habitat consists of the water, streambed, and adjacent riparian zone.

Laguna de Santa Rosa, the Petaluma River, and their tributaries which are already impaired for sediment and are designated critical habitat. In Marin County, Shamrock's sites drain to the Novato Creek and tributaries to the San Francisco Bay. In Napa County, Shamrock's sites drain to tributaries of the Napa River and eventually the San Francisco Bay.

All of these sites discharge storm water high in suspended solids, sediment, total organic carbon, specific conductance, and pH which exceed limits set in the Basin Plans for Region 1 and Region 2, benchmarks set by the Environmental Protection Agency, effluent limits established by the CWA or those set forth in the Porter Cologne Act. Exceeding any of these standards or limits is evidence of failure to meet Best Management Practices ("BMPs"), poor house keeping, failure to properly maintain records, failure to update Storm Water Pollution and Prevention Plans ("SWPPPs") or direct violations of effluent limitations made effective through the General Permit.

A. Sonoma County

Cloverdale -

At Shamrock's Cloverdale site activities include mining and gravel processing operations, retail distribution, rock washing and rinsing operations, cement recycling, and cement manufacturing. The large property sits approximately 10 feet below the elevation of a levee that allegedly separates the operations taking place on the site from the Russian River. During the dry season the site is approximately 300 feet from the River. In winter, that distance is much smaller and the site has been inundated in the past.

Mined sand and gravel are trucked to a processing plant located at 30022 Levee Road in Cloverdale for crushing, sorting, stockpiling, screening, and washing.³ In addition to gravel processing, Shamrock operates a cement batch plant at the Cloverdale site which is adjacent to the Russian River and Big Sulphur Creek. Shamrock has no NPDES permit for the Cloverdale site. Therefore, Shamrock is prohibited from discharging directly or indirectly to surface waters. Nonetheless, pollutants including turbidity, sediment, conductivity, pH, metals, petroleum products, suspended and soluble solids are released into Sulfur Creek, the Russian River and its tributaries. The Russian River and its tributaries are designated critical habitat. The Russian River is CWA § 303(d) listed as impaired for sediment, a chief component of Shamrock's discharge.

Shamrock deposits cement wastes in locations where the waste comes into contact with rain and generates runoff. Sediment process ponds are unlined and percolate to the adjacent surface

³ As part of industrial activities associated with the Cloverdale site, Shamrock removes large amounts of sand and gravel (>150,000 cubic yards/year) from the Russian River, approximately one mile east of the town of Cloverdale. The sand and gravel is removed from portions of eleven gravel bars that encompass 98.3 acres of riverbed below the plane of ordinary high water over a distance of 6.5 miles. The excavation areas also extend from the confluence of Big Sulphur Creek some 2,000 feet upstream. The operations require nine river crossings, the construction and utilization of which generate fine and coarse sediments. Shamrock continues to install seasonal crossings over low flow river channels to facilitate access to gravel extraction areas. The construction and tear down of these crossings are an additional source of pollution, allowing large amounts of gravel and earthen materials to be discharged into the Russian River which is CWA 303(d) listed for sediment. Only the extraction area immediately adjacent to the processing site is directly accessible from the processing site.

waters carrying pollutants through the unconfined aquifer to surface waters. Shamrock periodically dredges out unlined ponds and cement drying bays and transports the material via trucks to an onsite area adjacent to surface waters. This area is uncovered and completely exposed to rain. Rain washes pollutants off the exposed materials and into ground water or directly off site. Pollutants entering the unconfined aquifer percolate to adjacent surface waters. No provisions for the handling and recycling of concrete truck washout wastes are identified within Shamrock's Waste Discharge Requirements (Board Order Number 87-110).

Materials and pollutants are washed off the site during normal operations, storm events, and flooding. In this manner pollution from the site, directly and indirectly, enters waters of the United States. Storm water and non-storm water discharges occur through unauthorized transportation of concrete wastes and washout, extremely poor handling of cement wastes and washout, lack of adequate buffers, driving of heavy equipment in and on the banks of the water courses, the absence of riparian vegetation, cracks in the berms, and large amounts of uncontrolled runoff from stockpiles to the bare ground.

When the Cloverdale site is inundated by the Russian River, releases of sediment and other pollutants occur including fuels, oils, and grease. Shamrock's discharges contribute to a violation of applicable water quality standards each and every time the site is inundated.

The Cloverdale ponds are point sources as is the entire site. The ponds violate the Basin Plan's requirements for separation of wastes from ground water. The unlined percolation ponds are in the unconfined aquifer which is hydrologically connected to adjacent waters of the United States. Thus this discharge from the ponds to waters of the United States via the unconfined aquifer is a violation of the CWA.

285 Roberts Lane, Santa Rosa -

Shamrock operates this cement manufacturing site under the General Permit. The site includes a cement truck washout area which discharges to the bare ground. Pollutants from this site migrate off site, and enter storm drains connected to the Santa Rosa Creek and the Laguna de Santa Rosa, tributaries of the Russian River. The Laguna de Santa Rosa is CWA 303(d) listed for sediment and nutrients. The discharge is turbid and often colored. This site, like several of Shamrock's other sites, includes a grizzly⁴ that intercepts and collects ground water and acts as a conduit for pollution to ground water. Ground water is not protected, and no monitoring of ground water occurs. Ground water in the area of this site, in the Santa Rosa basin, is very close to the surface. Stormwater is polluted with concrete waste products. Some of the contaminated stormwater is pumped to an experimental sand filter system and discharged to bare ground where

⁴ A pit into which ingredients for cement manufacturing are dumped and then moved via a conveyor belt up into a silo for loading cement trucks.

it percolates and flows off site. None of the operational pollution controls are described with detail in Shamrock's SWPPP. No BMPs are set forth in the SWPPP to insure the efficacy or maintenance of the pollution devices.

Discharge sampling for specific conductance has been measured as high as 320 umho/cm, and pH at 9.12. The Basin Plan for the North Coast Region prohibits discharges of pH to be above 8.5. In addition to pH, the stormwater contains pollutants in amounts which far exceed limits expected when BMPs are adequate. For example, the Environmental Protection Agency's benchmark for total suspended solids is 100 mg/l. Discharges from this site have been recently measured as high as 2000 mg/l - 20 times that benchmark.

290 Todd Road, Santa Rosa
8150 Highway 116, Cotati
19725 Arnold Drive, Sonoma

Shamrock has no NPDES permits covering these sites. Operations include stockpiling raw materials, processing cement, processing cement wastes and retail activities. Except for a few small buildings the Todd Road site is open and exposed to the rains. Processes, materials, and products are exposed to rain water, and discharges of polluted storm water occur with every significant rain. Shamrock operates a trailer cement business at all these sites as well as retail distribution facilities. Cement waste is discharged where it has the potential to and often does run off site during rains.

The Cotati site is located near Highway 101. The site is porous and excess runoff discharges to a roadside ditch which drains to the Laguna de Santa Rosa. Ground water is not being monitored or protected.

Operations on the site in Sonoma include cement batching, stock piling of materials, washing of cement trucks and loading using a grizzly. The site is porous, and cement batch plant activities generate pollutants which discharge off site and into surface waters. The on site ponds are hydrologically connected to and sit adjacent to the creek approximately 50 feet away. Pollutants are washed from this site during heavy rains into the adjacent waterway. The pollution controls are inadequate to prevent runoff. Shamrock has no NPDES permit for this site.

101 E. Washington Street, Petaluma -

The retail and trailer cement facility at this site, which is adjacent to the Petaluma River, suffers from the same inadequacies as described for the Cotati and Sonoma sites. Due to the proximity of the Petaluma River, pollutants are washed from the site to the River with each rain of 1 inch or more. Shamrock has no NPDES permit for this site.

16 Landings Way, Petaluma -

Shamrock operates a large sand and gravel processing facility at this site which includes importation and stockpile of raw materials. The site sits adjacent to the Petaluma River and is not regulated by a NPDES permit. Runoff from the stockpiled sand and gravel washes to the creek bordering the property and flows to the river. The processing facility and cement batch plant

operations occur up stream of the importation site at 400 Hopper Street in Petaluma, a site which sits adjacent to a canal of the Petaluma River. The site is covered by the General Permit. Total suspended solids reported in discharges are high (524 mg/l), pH has been measured as high as 9.9 and specific conductance as high as 140 mg/l. All are in excess of Environmental Protection Agency benchmarks and evidence of poor housekeeping and inadequate BMPs. The annual reports are incomplete as are other reports required to prove compliance.

400 Hopper Road, Petaluma -

The processing facility and cement batch plant operations occur upstream of the importation site at Landings Way and are adjacent to a canal of the Petaluma River. The site is covered by the General Permit. Total suspended solids reported in discharges are high (524 mg/l), pH has been measured as high as 9.9 and specific conductance as high as 140 mg/l, all in excess of Environmental Protection Agency benchmarks and evidence of poor housekeeping and inadequate BMPs. An enviroport is in use at the site to attempt to recycle cement wastes. An experimental sand filter is also on site for the excess waste water associated with the processing of cement. Storm water associated with the so called "retail" area is discharged via an on-site drop inlet to the Petaluma River. Shamrock does not treat "retail areas" as industrial discharges. These discharges although associated with the industrial activity and contaminated by industrial activity, do not benefit from adequate BMPs, monitoring or reporting. The annual reports are incomplete as are other reports required to prove compliance.

B. Marin County

7552 Redwood Boulevard, Novato -

Shamrock operates a cement manufacturing and retail distribution facility at this site which is visible from and west of Highway 101. Novato Creek serves as the back border of the site. The beneficial uses of Novato Creek include municipal and domestic water supply, recreation, habitat for rare and endangered species, and wildlife. Novato Creek is impacted by Shamrock's operations. A grizzly is utilized on site. Shamrock discharges to storm drains, the Novato Creek (which drains to San Francisco Bay), and ground water. According to information obtained from the files of the Regional Water Quality Control Board - Region 2, annual reports submitted by Shamrock are incomplete, monitoring is inadequate, total suspended solids, specific conductance, and total organic carbon in discharges from the site are above benchmark. Ground water is not being monitored or protected. The size of the site is inadequate to afford proper runoff controls, storage, and treatment of polluted run off.

548 DuBois Street, San Rafael -

Shamrock operates a large, heavily used cement manufacturing and retail distribution facility on this site. The site discharges to city storm drains and the creek which composes the long back border of the site. These storm drains connect to the San Francisco Bay. The sensitive urban creek and San Francisco Bay are adversely impacted by Shamrock's operations. The site also consists of a large and busy retail area where products are exposed to rain water. Truck traffic passes through the area during business hours. Drain drop-inlets in this area convey polluted storm water directly

to the creek not more than 200 feet away. An experimental, storm water filtration system has been devised to attempt to treat some of the polluted storm water from the cement batch plant and truck washout areas before it leaves the site. Although this site is covered by the General Permit Shamrock has never developed any BMPs to determine the efficacy of or to provide the maintenance for this device. Dirt and product are tracked out onto city streets by the numerous trucks exiting the site where they then mix with storm water and enter city storm drains.

Good house keeping and BMPs implementing Best Available Technology ("BAT") are used at rival facilities operated by Canyon Rock and Syar Industries which operate numerous facilities in the North Bay counties in which trucks and even other vehicles which might track pollutants to the street are washed down to prevent these pollutants from migrating offsite. Shamrock's BMPs don't address the truck or vehicular traffic, nor any part of the facility which Shamrock considers to be "retail", regardless of the pollution or potential pollution from this part of the operations.

C. Napa County

Shamrock operates mining and processing facilities at the 999 Kaiser Road site which is in close proximity to the Napa River and its tributaries. Portions of the site are porous. Ground water is not being monitored or protected. Polluted storm water discharges off site to bare ground, storm drains, and to waters of the United States. The pollutant load often exceeds Environmental Protection Agency benchmarks. Total suspended solids have been measured as high as 1000 mg/l (benchmark is 100 mg/l), pH at 10.9 (benchmark is 8.5), total organic carbon at 24.4 mg/l, and specific conductance as high as 209. Pollutants are washed off the site with each significant rain into storm drains and waters of the United States. Shamrock has no NPDES permit covering this site.

D. Summary

Shamrock operates facilities at numerous sites wherein significant quantities of sand, gravel, rock, and cement manufacturing ingredients, product and waste are exposed to stormwater without the benefit of adequate or actual storm water management plans. None of the facilities are covered by a NPDES permit for non-storm water discharges (CWA §§ 402(a) and 402(b)). The sites and ponds on site are point sources subject to permitting. Therefore, non-storm water discharges of pollutants to surface waters is a violation of the CWA. Many of the facilities are not covered by a NPDES storm water permit (CWA § 402(p)), regardless of the fact that all the facilities discharge or threaten to discharge, large amounts of pollutants to surface and ground waters.

Shamrock's operations at these sites are conducted in the open air and are not self contained. Shamrock fails to implement BMPs as evidenced by numerous criteria: 1) discharging pollutants above Environmental Protection Agency benchmark; 2) violating Basin Plan limitations and narrative standards; 3) failing to use BATs or best current technology - the standard practice in the industry; 4) failing to describe BMPs in particularity; and, 5) failing to implement adequate site specific BMPs.

Shamrock's activities at the sites identified in this Supplemental Notice are industrial in nature - gravel mining, gravel processing, stockpiling, rinsing, sorting, distributing, and manufacturing. So called "retail" areas are fully integrated into the industrial nature of the sites.

SUMMARY OF VIOLATIONS

A. Failure to Obtain a NPDES Permit for Non-Storm Water Discharges

None of Shamrock's facilities have NPDES permits for non-storm water discharges. The following sites have ponds which are hydrologically connected to adjacent waters of the United States:

- 30022 Levee Road Cloverdale, CA
- 19725 Arnold Drive, Sonoma, CA

Ponds are point sources. Discharges from point sources to waters of the United States violates the CWA. The following sites have offsite migration of pollution to waters of the United States and are point sources:

- 30022 Levee Road Cloverdale, CA
- 290 Todd Road, Santa Rosa, CA
- 285 Roberts Lane, Santa Rosa, CA
- 19725 Arnold Drive, Sonoma, CA
- 101 E. Washington Street, Petaluma, CA
- 16 Landings Way, Petaluma, CA
- 400 Hopper Road, Petaluma, CA
- 7552 Redwood Boulevard, Novato, CA
- 548 DuBois Street, San Rafael, CA
- 999 Kaiser Road, Napa, CA

All of the sites have unauthorized non-storm water discharges which have been identified as coming from a wide variety of pollutant sources. They include waters from the rinsing or washing of vehicles, equipment, buildings, or pavement; materials that have been improperly disposed of or dumped, and spilled; or, leaked materials. Unauthorized non-storm water discharges can contribute a significant pollutant load to receiving waters. Transport and conveyance of materials, dust suppression activities, truck washing, sand and gravel rinsing, and cement truck wash out all occur during non-storm events. Wastes and sediments from these activities are discharged off site. These discharges impact or threaten to impact waters of the United States.

B. Failure to Obtain a NPDES Permit for Storm Water Discharges

Shamrock's facilities are considered Category 1 Dischargers by the State of California. Category 1 Dischargers are required to apply for a NPDES permit unless the facility does not discharge storm water to surface waters or separate storm sewers. Operations for which all the storm water is captured and treated and/or disposed of within the facility's percolation ponds are not required to obtain a storm water permit unless pollutants are reaching surface waters or separate storm sewers.

It is a violation of the CWA to discharge storm water or storm water containing pollutants directly or indirectly to waters of the United States without a NPDES permit. The following Shamrock sites have not obtained a NPDES permit for storm water discharges:

- 30022 Levee Road, Cloverdale, CA
- 290 Todd Road, Santa Rosa, CA
- 8150 Highway 116 South, Cotati, CA
- 19725 Arnold Drive, Sonoma, CA
- 101 E. Washington Street, Petaluma, CA
- 16 Landings Way, Petaluma, CA

As described above these sites discharge polluted storm water off site which enters, either directly or indirectly, waters of the United States.

CWA § 402(p)(4)(A) required the Environmental Protection Agency to establish regulations for permits for discharges of storm water associated with industrial activity. Those discharge regulations provide that, where activities and materials (material handling, storage, loading, transportation or conveyance of raw materials, intermediate product, finished product, by-product or waste product) are exposed to storm water, coverage is warranted. "Dischargers of storm water associated with industrial activity are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a promulgated storm water general permit." 40 C.F.R. § 122.26(c)(1).

The language "discharges associated with industrial activity" is very broad. The operative word is "associated." It is not necessary that storm water be contaminated or come into direct contact with pollutants; only association with any type of industrial activity is necessary. Shamrock's operations occur in the open air. Storm water therefore comes into contact with its operations. Because Shamrock discharges storm water associated with its industrial activities, it was required to obtain a storm water discharge permit for all of its sites by October 1, 1992 and to comply with the terms of that permit.

C. Failure to Comply with the NPDES General Storm Water Permit for Industrial Activity

For the sites for which coverage under the NPDES permit for storm water discharges associated with industrial activity has been obtained, Shamrock has failed to comply with those permit conditions in substantive ways including failure to implement best available pollution control techniques, failure to adequately monitor discharges, and failure to update practices and storm water pollution prevention plans in an expeditious manner as required.

The General Permit requires storm water dischargers to comply with its terms, including the filing of a Notice of Intent ("NOI") to be covered under the General Permit; the development and implementation of a SWPPP, the development and implementation of a Monitoring and Reporting Program, and the development and implementation of BMPs. Shamrock is required to develop BMPs using BAT, and best conventional technology to control and/or eliminate pollution. To assist dischargers the Regional Water Quality Control Board staff promotes *The Stormwater Best*

Management Practice Handbook a publication funded by the State Water Resources Control Board, Cal DOT and numerous municipalities. Last published in 2003, this publication sets forth minimum and general BMPs. Regions 1 and 2 of the Regional Water Quality Control Board have a General Permit for Gravel Mining and Sand and Gravel Operations which sets forth minimum BMPs for operations such as that of Shamrock

The sites identified in the original Notice and in this Supplemental Notice are subject to storm water effluent limitations, new source performance standards, and/or toxic pollutant effluent standards (40 CFR Subchapter N) as well as effluent limitation guidelines specified by 40 CFR Parts 411, 436, 440 and 443. Shamrock does not comply with these limitations, especially with respect to the specific limits established for cement manufacturing.

River Watch contends that Shamrock has failed to adequately develop or implement SWPPPs and Monitoring and Reporting Programs for each identified site. For the sites covered by the General Permit, River Watch contends Shamrock has failed to submit complete and timely Annual Reports, failed to adequately monitor discharges, failed to implement BMPs, and failed to update SWPPPs as necessary.

D. General Violations of the General Permit

1. Allowing materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States;
2. Causing or threatening to cause pollution, contamination, or nuisance, exceeding the specified effluent limitations identified in the original Notice and this Supplemental Notice;
3. Discharging storm water containing hazardous substances equal to or in excess of a reportable quantity listed in 40 CFR Part 117 and/or 40 CFR Part 302;
4. Failing to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BAT for toxic and non-conventional pollutants and BCT for conventional pollutants;
5. Failing to develop and implement SWPPPs which comply with the requirements in Section A of the General Permit and which include BMPs that achieve BAT/BCT;
6. Discharging storm water and non-storm water to surface or ground water which adversely impact human health or the environment;
7. Causing or contributing to an exceedance of any applicable water quality standard contained in a Statewide Water Quality Control Plan or the applicable Regional Water Quality Control Board's Basin Plan as discussed above;
8. Failing to submit reports to the Regional Water Quality Control Board describing BMPs currently being implemented and additional BMPs which will be implemented to prevent or reduce any pollutants causing or contributing to the exceedance of water quality standards;

9. Failing to update SWPPPs and Monitoring and Reporting Programs to reflect changes in BMPs, BATs and BCTs.

E. Inadequate SWPPPs

The General Permit requires dischargers in operation prior to October 1, 1992 to have developed and implemented a SWPPP no later than that date. If Shamrock began industrial activities after October 1, 1992, it must develop and implement a SWPPP for each of its sites at the start of operations. Shamrock is required to conduct a reasonable potential analysis. The SWPPP must be designed to identify and evaluate sources of pollutants associated with industrial activities which may affect the quality of storm water discharges and authorized non-storm water discharges from Shamrock's facilities; and, to identify and implement specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-storm water discharges in a timely manner. Shamrock's SWPPPs contain only generalized BMPs without specifically addressing the details necessary to determine the efficacy of the BMPs or whether or not BAT or BCT can be achieved.

Although, discharges from Shamrock's permitted sites contained high levels of pollutants since at least the year 1997, Shamrock failed to update its SWPPPs until 2005. These SWPPPs are inadequate in many ways. The operations, BMPs, and/or maintenance schedules are not described with particularity. The SWPPPs are not site specific nor do they contain accurate or detailed maps as required to demonstrate that each site has the capacity to treat, store, or otherwise properly dispose of specific quantities of polluted storm water. The General Permit details the specific requirements for preparing and implementing a SWPPP which are not followed by Shamrock.

Shamrock has inadequately identified and inadequately assessed all potential sources of pollutants and therefore has failed to describe the appropriate BMPs necessary to reduce or prevent these potential pollutants in its SWPPPs. One of the major elements of the SWPPP is the elimination of unauthorized non-storm water discharges to a facility's storm drain system. Measures to control spills, leakage, and dumping must be addressed through BMPs. Shamrock's BMPs fail to adequately address the specific sources of pollution found at the identified sites. Shamrock's SWPPP for the sites do not evaluate all potential pollution conveyances to determine whether they convey unauthorized non-storm water discharges to the storm drain system.

F. Inadequate Implementation of Monitoring and Reporting Programs

The General Permit requires dischargers in operation prior to October 1, 1992, to have developed and implemented a Monitoring Program no later than that date. Shamrock began industrial activities after October 1, 1992, and must develop and implement a Monitoring Program at the start of operations.

The Monitoring Program must be designed to ensure that storm water discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in the General Permit; and, must include visual observations and comprehensive sampling and analysis, and reporting.

Information obtained from the offices of Regions 1 and Region 2 of the Regional Water Quality Control Board indicates Shamrock has not adequately developed and/or implemented Monitoring Programs at the sites identified in this Supplemental Notice. Shamrock has failed to :

1. Perform visual observations of storm water discharges and authorized storm water discharges;
2. Collect and analyze samples of storm water discharges for pH, total suspended solids, total organic carbon, specific conductance, toxic chemicals, and other pollutants which are likely to be present in storm water discharges in significant quantities, and those parameters listed in Table D of the General Permit as well as those constituents listed in the CFR sections referenced above; and,
3. Report the results of required sampling in its Annual Report.

CONTACT INFORMATION

River Watch is a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and ground water in Northern California. River Watch is organized under the laws of the State of California. Its address is 6741 Sebastopol Avenue, Suite 140, Sebastopol, CA 95472. Telephone 707-824-4371. Northern California River Watch's e-mail address is US@ncriverwatch.org and website is ncriverwatch.org.

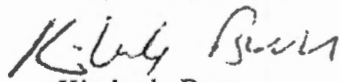
River Watch has retained legal counsel to represent it in this matter. All communications should be addressed to:

Kimberly Burr, Esquire
Jack Silver, Esquire
Law Office of Jack Silver
Post Office Box 5469
Santa Rosa, CA 95404-5469
Tel. 707-528-8175

CONCLUSION

The violations as set forth in this Supplemental Notice affect the health and enjoyment of members of River Watch who reside and recreate in the affected communities. The members of River Watch use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shell fish harvesting, hiking, photography, nature walks and the like. The members' health, use and enjoyment of this natural resource is specifically impaired by Shamrock's violations of the CWA.

Very truly yours,


Kimberly Burr

cc:

Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code 3213A
Washington, D.C. 20460

Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency Region 9
75 Hawthorne St.
San Francisco, CA 94105-3920

Celeste Cantü, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Stephen K. Butler, Esquire
Clement, Fitzpatrick, and Kenworthy
3333 Mendocino Avenue, Suite 200
Santa Rosa, CA 95405

James E. Sell, Esquire
Lynch, Gilardi & Grummer
475 Sansome St. Suite 1800
San Francisco, CA 94111